



## 2011 PUBLIC SEMINAR SERIES

# Certainty and uncertainty: native title anthropology in Australia

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In this paper we explore the practice of native title anthropology within the broader context of the social, legal and political forces that generated recognition of native title in Australia.

While the 1993 *Native Title Act* was promoted by politicians as an act of justice and the remedying of past wrong, its genesis was a recognition of a right by the High Court in the famous Mabo case. This was in stark contrast to other political attempts to right past wrongs to Indigenous Australians. Previous legislation to protect Indigenous rights commenced with State laws to protect sites, enacted mostly in the 1970s and moved to land rights legislation, the most notable of which was the NT *Aboriginal Land Rights Act* of 1976. These pieces of legislation were acts of favour not of right. *The Native Title Act*, on the other hand, was based on what the court had shown to be a right requiring, so it was argued, certainty in its recognition.

The *Native Title Act* requires that those who claim a customary right to country make application to the Federal Court for its recognition. This has proved a highly contested field with no certainty for a successful outcome on the part of applicant or respondent. Anthropologists have been drawn into the complex process to undertake research for both applicants and respondents.

This has had implications for the practice of anthropology in the applied field and its professional standing. One of these is the role of the anthropologist as an expert witness to the court; another the forensic nature of the research and opinions required for a focussed purpose. The nature of research process must rely in part on ethnographic reconstruction based on early texts and the interpretation of archival documents. This raises questions about anthropological method and process. Indigenous disputes over asserted rights to country (contested claims, overlapping claims) are also a feature of the contemporary native title landscape. These provide a complex operational context for the anthropologist and raise ethical issues and conflicts largely unknown outside native title practice.

**Tuesday 15 November 3.30pm**

The Seminar Room, NARU, 23 Ellengowan Drive, Brinkin

This seminar is free and open to the public.

The views expressed in this lecture are those of the presenter and do not necessarily represent the view of ANU.

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